

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

In re:	)	
	)	
UNITED STATES OF	)	
AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:09-CR-00044
	)	
JEANNE H. REDD,	)	
	)	
Defendant.	)	
	)	
_____	)	

BEFORE THE HONORABLE CLARK WADDOUPS

September 16, 2009

Sentencing Hearing

Laura W. Robinson, CSR, RPR, CP  
144 U.S. Courthouse  
350 South Main Street  
Salt Lake City, Utah 84101-2180  
(801)328-4800

Appearances of Counsel:

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For the Defendant: Rod W. Snow  
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Suite 210  
Salt Lake City, Utah 84101

1 Salt Lake City, Utah, September 16, 2009

2 \* \* \* \* \*

3 THE COURT: Let's turn now to the next case which is  
4 the United States versus Jeanne Redd, case 2:09-CR-44.  
5 Mrs. Redd, if you would come forward with your counsel.

6 As in the last case, let's start with the calculation  
7 of the guidelines which is required. Under the guideline  
8 calculation as set forth in the presentence report, the base  
9 offense level is eight, which is increased by four because  
10 of the cultural heritage resource exceeding \$10,000. There  
11 is also a special offense characteristic of an additional  
12 two points and an additional two points because it was  
13 committed for pecuniary gain and an additional two points  
14 because there was a pattern of misconduct bringing the total  
15 to 18.

16 Credit has been given for acceptance of responsibility  
17 to deduct three points bringing the total offense level to  
18 15. The criminal history category as developed in the  
19 presentence report results in a criminal history category of  
20 one.

21 Under the guidelines, this would result in a sentence  
22 in the range of 18 to 24 months. Are there any corrections  
23 to the guideline calculations as set forth in the  
24 presentence report?

25 MR. MCKELVIE: No. None from the United States, Your

1 Honor.

2 MR. SNOW: No, Judge. Thank you.

3 THE COURT: The court has carefully read the  
4 presentence report including the statement from Mrs. Redd.  
5 Are there any factual corrections that should be made in the  
6 presentence report?

7 MR. MCKELVIE: No, Your Honor.

8 MR. SNOW: No, Judge. Thank you.

9 THE COURT: The court will accept the presentence  
10 report. And it will be used as a basis for sentencing. The  
11 court has also taken into account a number of letters that  
12 were submitted in addition to the defendant's personal  
13 statement. I have read each of those carefully and take  
14 them into account in determining what the appropriate  
15 sentence in this case is.

16 Mr. McKelvie, does the United States wish to make a  
17 statement?

18 MR. MCKELVIE: Your Honor, consistent with the plea  
19 agreement, again, it is the position of the United States  
20 Attorney that the court should sentence the defendant to the  
21 low end of the guideline range.

22 THE COURT: Mr. Snow, does the defendant -- do you  
23 wish to make any statement on behalf of the defendant?

24 MR. SNOW: I do. Just briefly, Judge. We're actually  
25 asking the court to depart from that lower end, Judge, and

1 sentence to probation for all of the circumstances of which  
2 the court is aware. My client has, if there is such a thing  
3 as atoning for civil crimes or criminal crimes, in this  
4 case, she has done everything that she can. She has done  
5 everything that she has been asked to do. She has expressed  
6 contrition and we're asking the court to take the totality  
7 of these circumstances into account and to depart from the  
8 guidelines to make this a probationary sentence.

9 THE COURT: Okay. Mrs. Redd, I have read your  
10 statement in the presentence report. You're not required to  
11 say anything further. If you wish to make a statement,  
12 however, I would invite you to do so.

13 THE DEFENDANT: No. Thank you, Your Honor.

14 THE COURT: Thank you. I am prepared to impose  
15 sentence based on all of the information. And I should  
16 state for you Mrs. Redd, and others who may want to know,  
17 the law imposes upon me as the judge in this matter to  
18 impose a sentence that is appropriate in this case. The law  
19 dictates that it be sufficient to justify the penalty, but  
20 not greater than necessary. And the law also imposes that I  
21 not be guided simply by the guidelines and I cannot presume  
22 that the guideline ranges are reasonable. I have to assess  
23 each case individually taking into account all of the  
24 circumstances of that case, all of the comments that are  
25 made and all of the circumstances that led to the offense

1 and what would be appropriate in terms of punishment for  
2 that case.

3 I have done that and I am going to vary from the  
4 guideline range and I'm going to provide as justification  
5 that as set forth in Section 3553 the following reasons.

6 First, I am to consider the nature and circumstances  
7 of the offense and the history and the characteristics of  
8 the offender. The nature of the offense is serious and the  
9 court does not minimize the seriousness of the offense and  
10 that it is a violation of the law. But the history and  
11 characteristics of the event offender add a prospective to  
12 that. This is a community in which this kind of conduct has  
13 been if not culturally accepted has been tolerated for many  
14 years. And that doesn't justify it or make it legal, it  
15 doesn't explain away the offense, but it does provide an  
16 explanation and understanding as to what was going on.

17 The next factor to be considered is the seriousness of  
18 the offense and to promote respect for the law. And I'm  
19 going to take that into account. But taking that into  
20 account, I take into account also the other consequences  
21 that have been suffered by this defendant in connection with  
22 the offense and the seriousness that has been felt by her in  
23 the community as a result of these actions.

24 Next is whether it is adequate to deter criminal  
25 conduct. I do not believe any punishment beyond that which

1 I am going to impose is necessary to deter conduct. It is  
2 certainly not definite and necessary to deter conduct of  
3 this defendant. I'm satisfied completely by her statement  
4 that this conduct will not be repeated. I also believe that  
5 the prosecution of this case provides sufficient deterrence  
6 for others in the community who might engage in this kind of  
7 conduct.

8 I don't believe there is a need to protect the public  
9 from further crimes. This is not a crime of violence. This  
10 is not a crime in which there were significant pecuniary  
11 damages suffered by other members of the community or  
12 victims other than that to which she has found restitution.  
13 I am also going to take into account the need of the  
14 defendant for medical care and emotional care and support of  
15 her family which I believe are particularly significant in  
16 this case.

17 Finally, I am going to take into account the  
18 statements of other members of the community from a broad  
19 range of persons who have provided their insight to the  
20 court as to what would be appropriate in her case.

21 This is a woman who has spent her life as a member of  
22 the community. She has been active in the community, has  
23 supported all members of the community of all races and has  
24 been in all respects admirable as a member of society. And  
25 I'm going to impose sentence taking all of that into

1 account.

2 Also, I would note that the presentence report and  
3 other information provided supports that this defendant has  
4 been fully cooperative in providing information in  
5 connection with this offense. She has in fact provided her  
6 entire collection, both those items which may have been  
7 collected illegally as well as those that were collected  
8 legally. For all of those reasons I will impose sentence as  
9 follows.

10 It is the judgment of the Court that the Defendant,  
11 Jeanne H. Redd, be placed on probation for a period of  
12 36 months. The Court finds that the defendant poses a low  
13 risk of future substance abuse. The Court suspends any  
14 requirement that the defendant submit to mandatory drug  
15 testing.

16 The Court orders that the Defendant shall submit to  
17 the collection of a DNA sample at the direction of the  
18 Bureau of Prisons or the United States Probation Office.  
19 The Defendant shall not commit any federal, state or local  
20 crime and as a convicted felon is prohibited from possessing  
21 a firearm or other dangerous device while on supervision.

22 Defendant shall not illegally possess a controlled  
23 substance and shall comply with standard conditions of  
24 probation as adopted by this court. Also, the following  
25 special conditions shall be applied.



1           The Defendant shall submit her person, residence,  
2           office or vehicle to a search conducted by the probation  
3           office at a reasonable time and in a reasonable manner based  
4           upon reasonable suspicion of contraband or evidence of a  
5           violation of a condition of release. Failure to submit to a  
6           search may be grounds for revocation of probation. The  
7           Defendant shall warn any other residents of the premises  
8           that it may be subject to search under these conditions.

9           The Defendant shall refrain from entry onto tribal  
10          lands and public lands owned by or administered by the BLM,  
11          the United States Forest Service, the National Park Service  
12          and the National Wildlife Refuge System during the period of  
13          probation imposed by the court. Exceptions are made for  
14          travel through public lands on established highways or  
15          public roads as necessary for travel consistent with the  
16          defendant's personal and business affairs. The Defendant is  
17          not to associate in any way with the collection or  
18          excavation of archeological artifacts. The Defendant is to  
19          refrain from the purchase, sale, exchange or excavation or  
20          removal of archeological resources, regardless of their  
21          legality or origin, and will refrain from associating with  
22          persons involved in such activities. The Court finds that  
23          the defendant has the ability to pay a fine and I'm going to  
24          order a fine in the amount of \$2,000 with payments as set up  
25          by the probation office on a regular basis to begin

1 immediately.

2 The Defendant shall also pay a special assessment fee  
3 in the amount of \$700 which is \$100 for each count to which  
4 she has pled guilty.

5 Are there any other counts to be dismissed?

6 MR. MCKELVIE: No, Your Honor.

7 THE COURT: Any other -- now there is one last issue  
8 that I should address. There is a forfeiture of items  
9 seized in connection with the offense. Is that right,  
10 Mr. McKelvie?

11 MR. MCKELVIE: There is and the preliminary order of  
12 forfeiture has been provided to the court.

13 THE COURT: I am required in connection with the  
14 sentence to orally pronounce the forfeiture of those items  
15 and let me read them into the record. They are the items  
16 that are set forth in Exhibit A attached to the sentencing  
17 memorandum with regard to forfeiture. One Apple Imac Home  
18 Computer to include screen and keyboard; three Dell towers;  
19 one Magellan GPS unit, and 812 -- 812 miscellaneous  
20 artifacts which are set forth in the bill of particulars.

21 Are there any other items that should be included in  
22 the order of forfeiture?

23 MR. MCKELVIE: No, Your Honor. Not that I'm aware of.

24 MR. SNOW: Judge, for the record, we should go back to  
25 Jerrica Redd and you did the same thing because it is the

1 same.

2 THE COURT: Yes I -- I made a mental note we'll  
3 reopening that sentencing to add that in but let's finish  
4 with Ms. Jeanne Redd first.

5 Are there any other corrections that should be made or  
6 additions to the sentence imposed?

7 MR. SNOW: No, Judge.

8 MR. MCKELVIE: No, Your Honor.

9 THE COURT: I'm going to waive any interest on the  
10 fine so that it will be \$2,000 but there is no interest to  
11 be collected on the fine as you make payment.

12 I should -- I am required to advise you that should  
13 you wish to appeal this sentence, you must do so within ten  
14 days to be consistent with your plea agreement.

15 Anything else we should discuss with Ms. Redd?

16 MR. MCKELVIE: No, Your Honor.

17 MR. SNOW: No. Thank you.

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1 STATE OF UTAH )  
2 )ss  
3 COUNTY OF SALT LAKE )  
4

5 I, Laura W. Robinson, Certified Shorthand  
6 Reporter, Registered Professional Reporter and Notary Public  
7 within and for the County of Salt Lake, State of Utah, do  
8 hereby certify:

9 That the foregoing proceedings were taken before  
10 me at the time and place set forth herein and were taken  
11 down by me in shorthand and thereafter transcribed into  
12 typewriting under my direction and supervision;

13 That the foregoing pages contain a true and  
14 correct transcription of my said shorthand notes so taken.

15 In witness whereof I have subscribed my name and  
16 affixed my seal this 17th day of October, 2009.

17

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19 \_\_\_\_\_  
20 Laura W. Robinson, CSR, RPR, CP  
21 and Notary Public

22

23 MY COMMISSION EXPIRES:

24 February 19, 2013  
25